

**PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

United States District Court Western		District: <u>WESTERN DISTRICT OF WASHINGTON</u>
Name (under which you were convicted): <u>Owen T. Shreve</u>		Docket or Case No.: <u>3:20-cv-05883-JCC-DWC</u>
Place of Confinement: <u>WASHINGTON DEPARTMENT OF CORRECTIONS</u> <u>COYOTE RIDGE CORRECTIONS CENTER</u>		Prisoner No.: <u>420609</u>
Petitioner (include the name under which you were convicted) <u>Owen T. Shreve</u>	Respondent (authorized person having custody of petitioner) <u>STATE OF WASHINGTON</u>	
The Attorney General of the State of: <u>WASHINGTON</u>		

PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

KITSAP COUNTY SUPERIOR COURT,
KITSAP COUNTY, WASHINGTON

(b) Criminal docket or case number (if you know): AA-1910094418

2. (a) Date of the judgment of conviction (if you know): 01-08-2020

(b) Date of sentencing: 01-08-2020

3. Length of sentence: 87 MONTHS

4. In this case, were you convicted on more than one count or of more than one crime? ☒ Yes ☐ No

5. Identify all crimes of which you were convicted and sentenced in this case:

Felony communication w/ a minor for immoral purposes
Felony communication w/ a minor for immoral purposes
2nd degree child molestation
2nd Degree child molestation

6. (a) What was your plea? (Check one)

☐

(1)

Not guilty

☐

(3)

Nolo contendere (no contest)

☒

(2)

Guilty

☐

(4)

Insanity plea

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? _____

(c) If you went to trial, what kind of trial did you have? (Check one)

☐

Jury

☐

Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐

Yes

☒

No

8. Did you appeal from the judgment of conviction?

☐

Yes

☒

No

9. If you did appeal, answer the following:

(a) Name of court: _____

(b) Docket or case number (if you know): _____

(c) Result: _____

(d) Date of result (if you know): _____

(e) Citation to the case (if you know): _____

(f) Grounds raised: _____

(g) Did you seek further review by a higher state court?

☐

Yes

☒

No

If yes, answer the following:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Result: _____

(4) Date of result (if you know): _____

(5) Citation to the case (if you know): _____

(6) Grounds raised: _____

(h) Did you file a petition for certiorari in the United States Supreme Court?

☐

Yes

☒

No

If yes, answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☐ Yes ☒ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐

Yes

☐

No

(7) Result: _____

(8) Date of result (if you know): _____

(1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

9

Yes

No

(7) Result:

(8) Date of result (if you know):

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result: _____

(8) Date of result (if you know): _____

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☒ Yes ☐ No

(2) Second petition: ☒ Yes ☐ No

(3) Third petition: ☐ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

SEE ATTACHMENT A-1

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: SEE ATTACHMENT A-2

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

SEE ATTACHMENT A-3

(b) If you did not exhaust your state remedies on Ground One, explain why:

SEE ATTACHMENT A-4

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(c) **Direct Appeal of Ground One:**(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

SEE ATTACHMENT A-5(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: _____

SEE ATTACHMENT A-6

GROUND TWO:

SEE ATTACHMENT A-7

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

SEE ATTACHMENT A-8

(b) If you did not exhaust your state remedies on Ground Two, explain why: _____

SEE ATTACHMENT A-9

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue? _____

☐ Yes

☒ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

SEE ATTACHMENT A-10

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes

☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: _____

SEE ATTACHMENT A-11

GROUND THREE: SEE ATTACHMENT A-12

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

SEE ATTACHMENT A-13

(b) If you did not exhaust your state remedies on Ground Three, explain why: _____

SEE ATTACHMENT A-14

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

SEE ATTACHMENT A-15

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

SEE ATTACHMENT A-16

GROUND FOUR: SEE ATTACHMENT A-17

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

SEE ATTACHMENT A-18

(b) If you did not exhaust your state remedies on Ground Four, explain why:

SEE ATTACHMENT A-19

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes

☒ No

(2) If you did not raise this issue in your direct appeal, explain why:

SEE ATTACHMENT A-20

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes

☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition? ☐ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state: _____

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____

SEE ATTACHMENT A-21

13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☒ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: SEE ATTACHMENT A-22

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

SEE ATTACHMENT A-23

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: SEE ATTACHMENT A-24

(b) At arraignment and plea: _____

(c) At trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☒ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

SEE ATTACHMENT A-25

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

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- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief:

Immediate release
AND RESTITUTION FOR CONSTITUTIONAL VIOLATIONS
WITHOUT PREJUDICE

or any other relief to which petitioner may be entitled.

Pro-se

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on _____ (month, date, year).

Executed (signed) on _____ (date).



Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

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ATTACHMENTS

ATTACHMENT A-1: The State of Washington[1] does not have jurisdictional authority[2] to decide on United States Constitution[3] matters, which are outside its jurisdictional or statutory governing limits[4].

ATTACHMENT A-2: I am currently illegally and unlawfully imprisoned as a result of the abrogation of my federally conferred Constitutional rights by the State of Washington and its willful defiance of the established procedures and processes set forth by the United States Constitution.

ATTACHMENT A-3: The 5th Amendment[5] of the United States Constitution guarantees[6] that "No person shall be held to answer for a capital or otherwise infamous crime[7], unless on the presentment or indictment[8] of a Grand Jury[9]." Article 1. Section 26 of the Washington State Constitution states, "No Grand Jury[10] shall be drawn or summoned in any county, except the superior judge thereof shall order.", which directly contradicts[11] the United States Constitution and the Laws of the United States[12], as well as violates the duly established procedures and processes of the Law[13]. As a result of Washington States willful defiance of the due process[14] for the adjudication of Crimes, no bill of indictment[15] has been brought against me, therefore, my arrest, my conviction, and my imprisonment are all illegal.

ATTACHMENT A-4: My rights[16] as a United States Citizen[17] are guaranteed[18] to me by the United States Constitution. Therefore, the court with jurisdictional authority to decide whether to enforce or deny me of such a right, is a court of federal jurisdiction. As long as the State of Washington is acting in a willful defiance of the federally established procedures and processes[19] for the adjudication of Crimes[20], its acts resulting in the willful deprivation of life, liberty or property[21] can only be resolved through the petition[22] of grievances[23] to the authority providing such inalienable rights[24].

ATTACHMENT A-5: The State of Washington does not have the jurisdictional authority[25] to decide on United States Constitution[26] matters, which are outside its jurisdictional authority or statutory governing limits.

ATTACHMENT A-6: There are no remedies or alternate procedures as long as the State of Washington is acting in willful defiance of federal processes and statutes.

ATTACHMENT A-7: I am currently illegally and unlawfully[27] imprisoned as a result of the abrogation of my federally conferred Constitutional rights by the State of Washington and its willful defiance[28] of the established procedures[29] and processes set forth by the United States Constitution[30].

ATTACHMENT A-8: Article IV. Section 2 of the United States Constitution[31] guarantees that, "The Citizens of each state shall be entitled to all privileges and immunities[32] of Citizens in the several states[33]". Article IV of the United States Constitution provides that, "This Constitution and the Laws of the United States[34]..., shall be the supreme Law of the land[35] and the Judges[36] in every State shall be bound[37] thereby any Thing in the Constitution or Laws of any State to the contrary[38] notwithstanding[39]". The State of Washington is acting in willful defiance of federal statutes by denying[40] its residents the same Constitutionally guaranteed rights[41] for the due process of Law[42] that are available to residents of the several States. Therefore, my Constitutional rights have been violated and my arrest[43], my conviction and my imprisonment are all illegal.

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ATTACHMENT A-9: The State of Washington has abrogated my federally conferred Constitutional rights, therefore, no State court has jurisdictional authority to adjudicate this matter, because States do not have the jurisdictional authority to rule on issues outside of their limited jurisdictional or statutory governing authority.

ATTACHMENT A-10: The State of Washington does not have the jurisdictional authority to decide on United States Constitution matters, which are outside its jurisdictional or statutory governing limits.

ATTACHMENT A-11: There are no remedies or alternate procedures as long as the State of Washington is acting in willful defiance of federal processes and statutes.

ATTACHMENT A-12: I am currently illegally and unlawfully imprisoned as a result of the abrogation of my federally conferred Constitutional rights by the State of Washington and its willful defiance of the established procedures and processes set forth by the United States Constitution.

ATTACHMENT A-13: The 13th Amendment to the United States Constitution provides that, "Neither slavery[43] nor involuntary servitude[44], except as a punishment for crime whereof the party shall have been duly[45] convicted, shall exist within the United States, or any place subject to their jurisdiction[46]". Because due process of the Law was ignored[47] and the State of Washington abrogated my federally conferred inalienable rights, I have not been duly convicted of any crimes and as a result, my enslavement and placement into involuntary servitude under Washington State Department of Corrections is in direct violation of my 13th Amendment Constitutional rights.

ATTACHMENT A-14: The State of Washington has abrogated my federally conferred Constitutional rights, therefore, no State court has jurisdictional authority to adjudicate this matter, because States do not have jurisdictional authority to rule on issues outside of their limited jurisdictional or statutory governing authority. Since the United States Constitution is the originator of my inalienable rights, only a United States Court has the jurisdictional authority to decide whether to enforce[48] or deny[49] a United States Citizen of his Constitutional guarantees[50].

ATTACHMENT A-15: The State of Washington does not have the jurisdictional authority to decide on United States Constitution matters, which are outside its jurisdictional or statutory governing limits.

ATTACHMENT A-16: There are no remedies or alternate procedures as long as the State of Washington is acting in willful defiance of federal[51] processes and statutes.

ATTACHMENT A-17: I am currently illegally and unlawfully imprisoned as a result of the abrogation of my federally[52] conferred Constitutional rights by the State of Washington and its willful defiance of the established procedures and processes set forth by the United States Constitution[53].

ATTACHMENT A-18: In light of the complete disregard of my 5th Amendment rights[54] by the State of Washington and in the absence of compliance with the due process of law, no bill of indictment[55] has been brought against me, making all charges against me fraudulent[56] and illegal[57]. Therefore, my arrest, my conviction, and my imprisonment are also illegal. The willful deprivation of my life, liberty, and property by the State of Washington are now in violation of my 14th Amendment Constitutional rights, which provide that, "No state shall make or enforce any law which shall abridge the privileges or immunities of Citizens of the United States." The State of Washington had no legal authority to establish Article 1. Section 26 of its State Constitution without violating the Laws of the United States[58] and the rights of its Citizens[59].

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ATTACHMENT A-19: My rights as a United States Citizen are guaranteed to me by the United States Constitution. Therefore, the only court with jurisdictional authority to decide whether to enforce or deny me of such a right is a court of federal jurisdiction.

ATTACHMENT A-20: The State of Washington does not have the jurisdictional authority to decide on United States Constitution matters, which are outside its jurisdictional or statutory governing limits.

ATTACHMENT A-21: There are no remedies or alternate procedures as long as the State of Washington is acting in willful defiance of federal processes and statutes[60]. I have Constitutional guarantees, but a guarantee ceases to be a guarantee the moment that it is no longer guaranteed. A guarantee can not only be guaranteed part of the time or only guaranteed until the guarantee is needed, because that is not a guarantee, rather a lie[61].

ATTACHMENT A-22: No state court shall have jurisdiction as long as the State of Washington is acting in willful defiance[62] of federally established procedures and processes for the adjudication of Crimes. Therefore, its acts resulting in the deprivation of life, liberty, and property can only be resolved through the petition of grievances to the authority providing such inalienable rights.

ATTACHMENT A-23: No grounds herein have been raised at the state level, as the state has no jurisdictional authority over United States Constitution matters. This petition and all its grounds herein raised, represents my first attempt to receive federal relief from the willful deprivation of my life, my liberty, and my property by the State of Washington[63] without due process of law.

ATTACHMENT A-24: The State of Washington denied my United States Constitutional right to a preliminary hearing, as "No Grand Jury shall be drawn or summoned in any county."

ATTACHMENT A-25: This is not ~~Appellate~~ ^{APPLICABLE} -- This is an original action, it is not an appeal or mechanism requesting the review of petitioners judgement of conviction. This is a Constitutional challenge to the States action, specifically Article 1. Section 26 of the Washington State Constitution and its Unconstitutional provisions to Article V of the United States Constitution. Original jurisdiction of this new action clearly resides with the District Court. The United States Constitution is the "Supreme Law of the Land" and enjoys legal superiority over any conflicting provisions of a State Constitution or Laws.

ATTACHMENT A-26: The State of Washington has denied me my Constitutional rights. Therefore, I request the federal government to intervene and uphold the rights of one United States Citizen in order to preserve[65] the Constitutional rights of all United States Citizens[64], because any freedom which can be removed from one, can be removed from all and is no longer freedom, but an illusion of freedom.

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ADDENDUM ONE -- WASHINGTON STATE CONSTITUTION

ARTICLE 1. SECTION 2 - WASHINGTON STATE CONSTITUTION

"The Constitution of the United States is the supreme law of the land."

ARTICLE 1. SECTION 21 - WASHINGTON STATE CONSTITUTION

"The right of trial by jury shall remain inviolate."

ARTICLE 1. SECTION 26 - WASHINGTON STATE CONSTITUTION

"No Grand Jury shall be drawn or summoned in any county, except the Superior judge thereof shall order."

ARTICLE 1. SECTION 29 - WASHINGTON STATE CONSTITUTION

"The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise."

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ADDENDUM TWO -- UNITED STATES CONSTITUTION

ARTICLE III. SECTIONS 1 and 2 -- UNITED STATES CONSTITUTION

"The Judges, both of the supreme court and inferior Courts, shall hold their Offices during good behaviour."

"The judicial power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made."

"In all Cases in which a State shall be a Party, the supreme Court shall have original Jurisdiction."

"The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury and such Trial shall be held in the State where the said Crimes shall have been committed."

ARTICLE IV. SECTIONS 2 and 3 -- UNITED STATES CONSTITUTION

"The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several states."

"Nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State."

AMENDMENT V - UNITED STATES CONSTITUTION

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury."

ARTICLE VI. - UNITED STATES CONSTITUTION

"This Constitution and the laws of the United States shall be the supreme law of the land, and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding." "All executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support this Constitution."

Supremacy Clause: Article VI of the United States Constitution declares that the Constitution of the United States is the "Supreme Law of the Land" and enjoys legal superiority over any conflicting provision of a State Constitution or laws.

AMENDMENT VII - UNITED STATES CONSTITUTION

"The right of trial by jury shall be preserved."

AMENDMENT IX - UNITED STATES CONSTITUTION

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

AMENDMENT X - UNITED STATES CONSTITUTION

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States..."

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"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law nor deny to any person within its jurisdiction the equal protection of the laws."

AMENDMENT XXIV - UNITED STATES CONSTITUTION

"The right of citizens of the United States... shall not be denied or abridged by the United States or any State."

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ADDENDUM THREE -- Excerpt of THE DECLARATION OF INDEPENDENCE

DECLARATION OF INDEPENDENCE

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among them are Life, Liberty and the pursuit of Happiness. -- That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed. -- That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it... Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes and experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and provide new Guards for their future security. -- Such has been the patient sufferance of these Colonies and such is now the necessity which constrains them to alter their former Systems of Government."

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SUPPLEMENTAL DATA

1). NONSOVEREIGN STATE: A state that is a constituent part of a greater state that includes it and one or more others and to whose government is a subject. A state that is not complete and self-existent. Among other things, a non sovereign state has no power to engage in foreign relations.

2). ARTICLE III. SECTION 2 -- UNITED STATES CONSTITUTION: "The judicial power shall extend to all cases, in law and equity, arising under this Constitution."

3). UNITED STATES CONSTITUTION: The 1787 document ratified by the original 13 colonies to reform and restructure the national government and establish the relationship between the federal government and the states collectively and the relationship with the individual states.

1). Constitutions are mainly devices used for establishing rights and limiting powers.

4). LIMITED GOVERNMENT: A system, usually Constitutionally based in which the reach of the government is purposely restricted so that the government has minimal ability to abridge the people's civil rights.

1). The Constitution of the United States establishes limited government by imposing restraints on the Federal Government and the States. In some matters the individual is protected against the federal government, in others against the state and still others against both. These limitations are not merely vague declarations of rights or political theories they are rules expounded and applied by the courts, enforced by proper executive authorities and respected as creed.

5). GRAND JURY CLAUSE: The clause of the 5th Amendment to the United States Constitution requiring an indictment by a Grand Jury before an individual can be tried for a serious offense.

1). There are few ways out of Bondage. Bloodshed and war often result, but our founding fathers learned of a better way, they created a three vote system by which an informed citizenry can control those acting in the name of government. The base of the power was to remain in "We the People". The United States of America is a Republic, not a democracy. A democracy is dangerous because it is a one-vote system as opposed to a Republic, which is a three-vote system: Three votes to check tyranny, not just one. Our first vote is at the polls on election day when we pick those who are to represent us in the seats in government. But what can be done if those elected officials just don't perform as promised or expected? The second two votes are the most effective means by which the common people of any nation have ever had in controlling those appointed to serve them in office. The second vote comes in the service of a Grand Jury. Before anyone can be brought to trial for a capital or infamous crime by those acting in the name of government, permission must be obtained from people serving on the Grand Jury. "A Grand Jury's purpose is to protect the public from an overzealous prosecutor." The third vote comes in service as a jury member during a courtroom trial. Thus, those acting in the name of government must come before the common man to get permission to enforce the law.

2). John Jay, 1st Chief Justice, U.S. Supreme Court, 1789, "The jury has a right to judge both the law as well as the fact in controversy."

3). Samuel Chase, U.S. Supreme Court Justice, 1796, And Signer of the Unanimous Declaration of Independence, "The jury has the right to determine both law and the facts."

4). Oliver Wendell Holmes, U.S. Supreme Court Justice, 1902, "The jury has the power to bring a verdict in the teeth of both law and fact."

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5). Harlan F. Stone, 12th Chief Justice, U.S. Supreme Court, 1941, "The law itself is on trial quite as much as the cause which is to be decided."

6). State of Georgia vs. Brailsford, et. al, 3 Dall. 1, "... it is presumed, that the juries are the best judges of facts it is, on the other hand, presumed that the courts are the best judges of the law. But still both objects are within your power of decision." "You have a right to take upon yourselves to judge of both, and to determine the law as well as the fact in controversy."

7). James Wilson, U.S. Supreme Court Justice, And Signer of the Unanimous Declaration of Independence, "I know no mode of investigation equal to that by a trial by jury." (Elliot, 2:516)

6). CONSTITUTIONAL GUARANTEE: A promise contained in the United States Constitution that supports or establishes an unalienable right, such as the right to due process.

7). INFAMOUS CRIME -- SUPREME COURTS INTERPRETATION: The Supreme Courts interpretation of the Constitutional requirement of indictment for infamous crimes:

1). United States v. Coachmen (1985), "An offense other than criminal contempt, must be prosecuted by an indictment if it is punishable: (A) By death, or (B) by imprisonment of more than one year."

2). Macklin v. United States, "Infamous crimes are punishable by imprisonment in a penitentiary."

3). United States v. Moreland, "The sentence that the law may impose, not the sentence actually imposed, determines whether a Grand Jury indictment is required."

4). United States Law -- 18 U.S.C. § 4083, "An infamous crime is any crime punishable by more than one year imprisonment in a penitentiary."

8). INDICTMENT: The formal written accusation of a crime, made by a Grand Jury and presented to a court for the prosecution against the accused person.

1). INDICT: To charge (a person) with a crime by formal legal process, esp. by Grand Jury presentation.

9). GRAND JURY: A body of 16-23 people who decide whether to issue indictments.

1). Fed. Crim. P.6 and Fed. Crim. P.7

10). NEED FOR GRAND JURY: The Grand Jury determines if there is sufficient probable cause to assume that a crime has been committed and protects citizens from unfounded prosecutions.

1). United States v. Cotton, "Grand Juries serve a vital function as a check on prosecutorial power."

2). U.S. 441 F.3d 44, "Grand Juries investigate criminal allegations and protect citizens against prosecutorial misconduct.

3). U.S. 781 F.2d 238, "Grand Juries secure citizens against arbitrary or oppressive action."

4). United States v. Suarez, "Grand Juries are the defendants main protection against unfounded criminal charges."

5). United States v. Caruto, "Grand Juries act as a primary security to the innocent against hasty, malicious, and oppressive persecutions."

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- 6). Durham vs. Horner, "Grand Juries determine probable cause and provide a basis for trial."
- 7). United States vs. Coachman, "Grand Juries shield the accused from unjust prosecution by indicting only upon probable cause."
- 8). U.S.C. 286 F.3d 153, "Grand Juries act as buffers between the people and the government."
- 9). United States vs. Erickson, "Grand Juries are investigatory bodies charged with the responsibility of determining whether or not a crime has been committed."
- 10). United States vs. York, "Grand Juries are not merely investigative bodies, but also exist for the protection of the citizens against unfounded criminal prosecutions."

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11). SUPREMACY CLAUSE: Article VI -- of the United States Constitution declaring that the Constitution of the United States is the "Supreme Law of the Land" and enjoys superiority over any conflicting provision of a State Constitution or laws.

12). INFAMOUS CRIME: 18 U.S.C. § 4803, "An infamous crime is any crime punishable by more than one year imprisonment in a penitentiary."

13). CRIMINAL PROCEDURE AND DUE PROCESS:

1). Criminal Procedure: The rules governing the mechanisms under which crimes are investigated, prosecuted, adjudicated, and punished. It includes the protections of accused citizens Constitutional rights.

2). Due Process: The conduct of legal proceedings according to established rules and principles for the protection and enforcement of private rights.

3). *Gitlow v. New York*, 268 U.S. 652 (1925), Extended the First Amendment and Fourteenth Amendment equal protection provisions to the states as well as the federal government. This ruling was the first of a number of decisions holding that the Fourteenth Amendment extended the provisions of the Bill of Rights to state action.

4). *Powell v. Alabama*, 287 U.S. 45 (1932), Extended the Fourteenth Amendment guarantee of due process of law to state courts.

5). *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), Declared unconstitutional state statutes. The Supreme Court found for the sisters, holding that the Fourteenth Amendment guarantees "personal liberties."

14). INALIENABLE RIGHTS: The rights of life, liberty, and property so fundamentally important as to require compliance with due process standards of fairness and justice.

15). BILL OF INDICTMENT: An instrument presented to a Grand Jury and used by the jury to declare whether there is enough evidence to formally charge the accused of a crime.

16). CONSTITUTIONAL RIGHT AND FUNDAMENTAL CONSTITUTIONAL RIGHT:

1). Constitutional Right: A right guaranteed by the Constitution.

2). Fundamental Constitutional Right: A right that is specifically identified in the Constitution or has been found to be protected under the Due Process or Equal Protection Clauses.

17). AMENDMENT XIV -- UNITED STATES CONSTITUTION: "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are Citizens of the United States and the State where they reside."

18). A GUARANTEE: A guarantee ceases to be a guarantee the moment that it is no longer guaranteed. A guarantee can not only be guaranteed part of the time, or only guaranteed until the guarantee is needed, because that is not a guarantee, rather a lie.

19). MAGNA CARTA INTERPRETATION OR DUE PROCESS OF THE LAW: The words "Due Process of Law" were no doubt intended to convey the meaning as the words, "By the Law of the Land". -- Magna Carta

20). WHEN FREEDOM IS ROBBED FROM THOSE WHO ARE FREE: That no man ought to be taken, imprisoned, seized of his freehold, liberties, privileges, or franchises, or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the Law of the Land.

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21). TYRANNY: The severe deprivation of a natural right by a ruler wielding power unjustly and arbitrarily to oppress the Citizenry.

1). William Pitt, British House of Commons, "Necessity is the plea for every infringement of human liberty, it is the argument of tyrants, it is the creed of slaves."

2). "Where the people fear the government, you have tyranny, where the government fears the people, you have liberty." -- Unknown

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3). Lysander Spooner, Essay on the Trial by Jury, "Government is established for the protection of the weak against the strong. This is the principal, if not the sole motive for the establishment of all legitimate government. It is only the weaker party that lose their liberties, when a government becomes oppressive. The stronger party, in all governments are free by virtue of their superior strength. They never oppress themselves. Legislation is the work of this stronger party and if, in addition to the sole power of legislation, they have the sole power of determining what legislation shall be enforced, they have all power in their hands, and the weaker party are the subjects of an absolute government. Unless the weaker party have a veto, they have no power whatever in the government and... no liberties... The Trial by jury is the only institution that gives the weaker party any veto upon the power of the stronger. Consequently it is the only institution that gives them any effective voice in the government, or any guaranty against oppression."

4). U.S. vs. Dougherty, 473 F 2nd 1113, 1139, (1972), "The pages of history shine on instances of the jury's prerogative..." "The will of the state at large imposed on a reluctant community, the will of a majority imposed on a vigorous and determined minority, find the same obstacle in the local Jury that formerly confronted kings and ministers." (emphasis added) -- Dougherty, cited above, note 32, at 1130.

5). Abraham Lincoln, President of the United States of America, "Study the Constitution! Let it be preached from the pulpit, proclaimed in the legislatures, and enforced in our courts of justice."

6). Abraham Lincoln, President of the United States of America, "The people are the masters of both Congress and Courts, not to overthrow the Constitution, but to overthrow the men who pervert it!"

7). George Washington, 1st President of the United States of America, "Government is not reason it is not eloquence it is force! Like fire, it is a dangerous servant and a fearful master."

22). ARTICLE I. SECTION 9 -- UNITED STATES CONSTITUTION: "The privilege of Writ of Habeas Corpus shall not be suspended."

23). AMENDMENT I. -- UNITED STATES CONSTITUTION: Congress shall make no law abridging the right of the people to peaceably assemble and to petition the government for a redress of grievances."

24). DECLARATION OF INDEPENDENCE -- UNITED STATES OF AMERICA: "We hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness."

25). ARTICLE III. SECTION 1 -- UNITED STATES CONSTITUTION: "The judicial power of the United States, shall be vested in one Supreme Court and in such inferior Courts as the Congress may from time to time ordain and establish."

1). All courts are inferior to the Supreme Court. Therefore, the established procedures and processes of the Superior Court (Supreme) must be followed, otherwise the inferior courts obtain superiority and the Supreme Court can no longer enjoy supremacy over the inferior courts.

2). If inferior courts have the authority to deny the rights guaranteed by the Supreme Court, then the Supreme Court is no longer supreme, as the inferior court assumes greater authority.

26). PURPOSE OF A CONSTITUTION: Constitutions are mainly devices used for establishing rights and limiting powers, and constitutionalism advances naturally, together with the expansion of suffrage rights and democratization.

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27). AMENDMENT V -- UNITED STATES CONSTITUTION: "No person shall be deprived of life, liberty, or property without due process of law."

28). THOMAS JEFFERSON'S DEFINITION OF FEDERALISM: "Federalism is not about any single state or small fraction of states imposing their will on the nation. It is about states serving, in the aggregate, as an essential buffer between the central government and the people."

1). "The Judiciary of these United States is the subtle corps of sappers and miners constantly working under ground to undermine the foundations of our confederated fabric." -- Thomas Jefferson, 1820

29). AMENDMENT XIV -- UNITED STATES CONSTITUTION: "No state shall deprive any person of life, liberty, or property without due process of law."

30). DUE PROCESS CLAUSE: The Constitutional provision that prohibits the government from unfairly or arbitrarily depriving persons of life, liberty, or property.

31). THE WORD CLAUSE: The word "Constitute", which is the root word for Constitution, means, "To bring together, to set up, in harmony with a political", it is derived from Latin, "To piece together". By definition, it implies agreement and harmony, a willingness to comply with certain social and communal values. So, what happens when that harmony is disturbed? According to the evolution of a Constitution, advancement or progression or relationship (laws) occurs through suffrage rights (voting). But voting is a function of the constituency and not the individual. Advancement does not occur arbitrarily, it is the result of majority opinion, as to prevent loss of harmony. Individual authority to violate that which has been constituted is neither granted nor implied, as much as authorization would be detrimental to the sustainability and stability of said Constitution. We can not allow individual infringement upon majorities and agreed upon code of conduct. Such behavior is contrary to the intended goal of a Constitution, which is to provide true liberty and freedom to the constituents governed by the societal relationships established by the majority. True freedom exists only in the absence of power. Power is the mechanism utilized to remove or limit liberty. Therefore, my freedom is robbed when your powers are exercised. That is why a Constitutions primary purpose is to "establish rights, but limit powers", as this is the basis for any country claiming to be free.

32). PRIVILEGES AND IMMUNITIES CLAUSE: The constitutional provision prohibiting a state from favoring or discriminating against citizens.

33). UNITED STATES OF AMERICA: A federal republic formed after the late 18th century War of Independence and made up of 48 conterminous states, plus the state of Alaska, plus the island state of Hawaii in the pacific ocean.

34). SOVERIEGN STATE: A state that possesses an independent existence, being complete in itself, without being merely part of a larger whole to whose government it is subject.

35). SUPREMACY CLAUSE: Article VI of the United States Constitution declaring that the Constitution of the United States is the "supreme law of the land" and enjoys legal superiority over any conflicting provision of a State Constitution or laws.

1). Marbury v. Madison, 5 U.S. 137 (1803), Supreme Court Chief Justice John Marshall declared "that any conflict between the Constitution and a law passed by Congress, the Constitution must always take precedence."

a). Marbury v. Madison, 5 U.S. (2 Cranch) 137, 174, 176, (1803) "All laws which are repugnant to the Constitution are null and void."

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2). *Martin v. Hunter's Lessee*, 14 U.S. 304 (1816), Firmly established the Supreme Court as the ultimate authority in interpreting the Constitution.

3). *Miranda vs. Arizona*, 384 U.S. 436 p. 491, "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."

4). *Norton vs. Shelby County* 118 U.S. 425 p. 442, "An unconstitutional act is not law it confers no rights it imposes no duties affords no protection it creates no office it is in legal contemplation, as inoperative as though it had never been passed."

5). 16 AM Jur 2d, Sec 177 late 2d, Sec 256, "No one is bound to obey an unconstitutional law and no courts are bound to enforce it." The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void, and ineffective for any purpose since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it.

36). ARTICLE III. SECTION 1 -- UNITED STATES CONSTITUTION: "The judges, both of the supreme court and inferior courts, shall hold their offices in good behaviour."

1). Good Behaviour: A standard by which judges are considered fit to continue their tenure, consisting in the avoidance of criminal behavior.

2). Thomas Jefferson, President of the United States of America, "... when all government... in little as in great things, shall be drawn to Washington as the center of all power, it will render powerless the checks provided of one government on another and will become as venal and oppressive as the government from which we separated." (emphasis added, 1821) Also: "...judges should be withdrawn from the bench whose erroneous biases are leading us to dissolution. It may, indeed, injure them in fame or fortune but it saves the Republic..."

37). OATH OR AFFIRMATION CLAUSE: The clause of the United States Constitution requiring members of Congress and State Legislators and all members of the executive and judicial branches -- State or local to pledge an oath or affirmation to support the United States Constitution.

1). The person making the oath implicitly invites punishment if the statement is untrue or if the promise is broken, the legal effect of an oath is to subject the person to penalties of the crime of perjury if the testimony is false..

38). INCORPORATION: The process of applying the provisions of the Bill of Rights to the States by interpreting the 14th Amendment Due Process Clause as encompassing those provisions.

39). PREEMPTION: The principal (derived from the supremacy clause) that a federal law can supercede or support any inconsistent state law or regulation.

40). BILL OF RIGHTS: A section in the Constitution (The Amendments) guaranteeing that government powers will not be used in certain ways.

41). A MAN HATH RIGHTS: In all criminal prosecutions a man hath a right to demand the cause and nature of his accusations, to be confronted with the accusers and witnesses, to call for evidence and to be allowed counsel in his favor and to a fair and speedy trial by an impartial jury.

1). As evidenced by the United States Constitution, the Grand Jury and the Trial by Jury, is one conjoined process that is insuperable. One can not exist without the other. And as such, it is protected in the 7th Amendment "The right of trial by jury is preserved" and in the 9th Amendment "The enumeration in the Constitution, of certain rights shall not be construed to

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deny or disparage others retained by the people" and in the 10th Amendment "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." and as well as the 5th Amendment and the 14th amendment. The functions of a Grand Jury and Trial by Jury are synonomous with each other, encompassing one process and procedure. There can not be the explicit mention of one thing with the exclusion of the other -- *expresio unius est exclusio alterius*.

42). BORDEN KRICKER v. HAYES: "To punish a person because he has done what the Law plainly allows him to do is a due process violation of the most basic sort."

43). BECK v. OHIO: "Probable cause may not be established simply by showing that the officer who made the challenged arrest or search subjectively believed he had grounds for his action."

"If subjective good faith alone were the test, the protection of the Fourth Amendment would evaporate and the people would be secure in their persons, houses, papers, and effects only in the discretion of the police."

1). Subjective: Based on an individuals perceptions, feelings or intentions.

2). Slavery: A situation in which one person has absolute power over the life, fortune and liberties of another. The practice of keeping individuals in such a state of bondage.

3). Slave Labor: Work for which one is paid an unfairly small amount of money.

44). INVOLUNTARY SERVITUDE: The condition of one forced to labor, for pay or not, for another by coercion or imprisonment.

45). DULY: In a proper manner in accordance with legal requirements.

46). FEDERAL GOVERNMENT: A national government that exercise some degree of control over political units that have surrendered some degree of power in exchange for the right to participate in national political matters.

47). IGNORANTIA JURIS WON ECUSAT: (Ignorance is not an excuse) Lack of knowledge about a legal requirement or prohibition is never an excuse to a criminal charge.

48). ARTICLES OF THE UNITED STATES CONSTITUTION:

1). Article I. Section 1 -- United States Constitution: "All legislative Powers herein granted shall be vested in a Congress of the United States."

2). Article I. Section 8 -- United States Constitution: "The Congress shall have the power to make all laws which shall be necessary and proper for carrying into execution for the foregoing powers and all other powers vested by this Constitution."

3). "The Congress, whenever two thirds of both Houses shall deem it necessary, shall purpose Amendments to this Constitution."

4). Legislative Branch: The division of government responsible for creating, amending, or destroying laws.

5). Legislation: The process of making or enacting positive laws in written form, according to some type of formal procedure, by a branch of government constituted to perform this process.

a). The Legislation Branch cannot transfer the power of making Laws to any other hands.

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49). PLESSY v. FERGUSON: Justice John Marshall Harlan, "Our Constitution is color-blind and neither knows nor tolerates classes among citizens. In respect to civil rights, all citizens are equal before the Law."

50). AMENDMENT XIV -- UNITED STATES CONSTITUTION: "No state shall deny to any person within its jurisdiction the equal protection of the Laws."

1). Laws can only be Legitimate if they can be described as just and equal.

51). FEDERAL: Of, or relating to, or involving a system of associated governments with a vertical division of governments into national and regional components having different responsibilities, esp. pertaining to the national government of the United States.

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regional components having different responsibilities esp. pertaining to the national government of the United States.

52). **FEDERALISM:** The Legal relationship and distribution of power between the national and regional governments within a federal system of government and in the United States particularly, between the federal government and the state governments.

53). **FEDERAL LAW:** The body of Law consisting of the United States Constitution, federal statutes and regulations, U.S. Treaties and federal Common Law.

54). **EQUAL PROTECTION CLAUSE:** The Fourteenth Amendment of the United States Constitution guaranteeing that the government must treat a person or class of persons the same as it treats other persons or classes in like circumstances.

1). *Yick Wo v. Hopkins*, 118 U.S. 356 (1886), Declared that the equal protection clause of the Fourteenth Amendment applies to all persons, not just citizens.

55). **BILL OF INDICTMENT:** An instrument presented to a Grand Jury and used by the Jury to declare whether there is enough evidence to formally charge the accused of a crime.

56). **TRUE BILL:** A Grand Jury's notion that a criminal charge should go before a petty jury for trial.

57). **IMBLER v. PACHTMAN:** "The court never suggested that the policy considerations which compel civil immunity for certain government officials also place them beyond the reach of criminal law. Even judges, cloaked with absolute civil immunity for centuries, could still be punished for criminality for willful deprivations of Constitutional rights."

58). **AMENDMENT XIV -- UNITED STATES CONSTITUTION:** "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States."

59). **IMMUNITIES:**

1). **Absolute Immunity:** A complete exemption from civil liability, usually afforded to officials while performing particularly important functions, such as representatives enacting legislation and judges.

2). **Judicial Immunity:** The immunity of a judge from civil liability arising from the performance of judicial duties.

3). **Prosecutorial Immunity:** The absolute immunity of a prosecutor from civil liability for decisions made and actions taken in a criminal prosecution.

60). **JUSTICE:** The fair treatment of people and the fair and proper administration of Laws.

61). **PERJURY:** The act or instance of a person deliberately making material false or misleading statements while under oath esp. the willful utterance of untruthful testimony under oath or affirmation.

1). **Judicial Oath:** "I _____, do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic that I will bear true faith and allegiance to the same that I take this obligation freely, without any mental reservation or purpose of evasion that I will faithfully discharge the duties of office which I am about to enter. So help me God."

62). **OBSTRUCTION OF JUSTICE:** Interference with the orderly administration of Law and Justice, as by giving false information or withholding evidence from a police officer, prosecutor or jury or by harming or intimidating witnesses or jurors.

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1). Obstruction of Justice is a crime in most jurisdictions.

2). The goal to proscribe every willful act of corruption, intimidation or force which tends in any way to distort or impute the administration of Law, either civil or criminal.

63). PERVERTING THE COURSE OF JUSTICE: The skewing of the disposition of legal proceedings, as by fabricating or destroying evidence, witness tampering, witness threatening, or witness intimidation.

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WESTERN UNITED STATES DISTRICT COURT
DISTRICT OF WASHINGTON

 Petitioner

V.

 STATE OF WASHINGTON

Respondent

CASE NO:

MOTION TO COMPELL
FOR INFORMATION
(SHOW CAUSE)

 MOTION TO COMPELL FOR INFORMATION (SHOW CAUSE)

Petitioner respectfully submits to the court this Motion To Compel For Information (Show Cause).

Petitioner has submitted a Writ of Habeas Corpus pursuant to Title 28 U.S.C. § 2254. The right to challenge an unlawful detention by Writ of Habeas Corpus is guaranteed by the United States Constitution (Article I, Section 9).

It is alleged that the Petitioners federally conferred Constitutional rights have been violated by the State of Washington. Therefore, Petitioner asks the court to order Respondent to present the Bill of Indictment by a Grand Jury causing the order of Petitioners arrest and detainment in accordance with the 5th Amendment of the United States Constitution and the Laws of the United States. If the Respondent cannot provide the legal cause for Petitioners restraint as mentioned above, Petitioner asks the court to order his immediate release from confinement. Because detaining a person in the absence of any legal authority to do so is illegal detention, Petitioner is entitled to the immediate release from confinement. This Writ of Habeas Corpus IS an original civil action. It is NOT an appeal or mechanism requesting federal review of Petitioners judgement of conviction, therefore, the right to proceed may not be conditioned upon the exhaustion of any other remedy. If Respondent cannot provide the legal cause for Petitioners arrest and detainment, as stipulated by the 5th Amendment to the United States Constitution, then the "Fruits" obtained by the unconstitutional arrest and charge (i.e. conviction, sentence, and imprisonment) are also rendered unconstitutional, as they are tainted by the illegality of the way in which they were obtained.

In accordance with Amendment XIV to the United States Constitution, Petitioner is a Citizen of the United States and of the State in which the Petitioner resides. Under the Laws of the United States Constitution, Petitioner is entitled to an indictment by a Grand Jury before being held to answer for an infamous crime. The State of Washington undeniably violated that right the moment that Petitioner was held to answer for an infamous crime without an indictment by a Grand Jury.

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Petitioner has not and will not relinquish his United States Citizen rights, regardless of where within the jurisdiction of the United States he chooses to reside. Furthermore, Petitioner cannot be denied his United States Citizenship rights by any regional or local governments subject to the authority and jurisdiction of the United States of America.

To be clear, Petitioner is not attempting to change laws, rather pointing out what the laws state and that the ways in which they are being enforced, directly contradicting with what is specified. Therefore, Petitioner is not trying to change the laws, rather asking that the laws be upheld. If the laws state that something will be done, in a certain way, then we MUST follow the laws in that way. Laws do not change arbitrarily, that is tyranny. Constitutionalism demands that the laws evolve only through suffrage, therefore, it is up to the people to decide whether or not the United States Constitution applied to them and not a Judge or a State.

Petitioner respectfully requests that the court proceed in a summary way to determine the cause of the restraint and to take immediate and appropriate action in the absense of legal cause for his arrest and detention.

Thank you for your time and consideration,

Petitioner, ProSe

United States District Court
District of Washington,

	Case No.:
Petitioner	
V.	Motion for Vicarious Exhaustion of State Remedies
STATE OF WASHINGTON Respondent	

Petitioner respectfully submits to the Court, this Motion for Vicarious Exhaustion of State Remedies.

It is being recommended, by the District Court, that Petitioner's Writ of Habeas Corpus petition be denied for failing to exhaust state remedies. However, the District Court did recognize the similarities between Petitioner's petition and other similar petitions: "The Court notes that several similar petitions by different petitioners presenting the same grounds for relief and offering the same explanation for failure to exhaust state judicial remedies have been considered and dismissed by this court prior to service, pursuant to Rule 4, based on petitioner's failure to exhaust state judicial remedies" (see: Appendix A, line 13).

To date, Petitioner's Writ of Habeas Corpus claims are similar to hundreds of "similar petitions by different petitioners presenting the same grounds for relief," including the Habeas petition submitted by Scott A. Fischer, Case No.: 2:20-cv-00051-TSZ.

"To be properly filed, a claim must have been exhausted at the time of filing" (See: Appendix A, line 3). According to the "Vicarious Exhaustion of Remedies" rule and State v. Fischer (See: Appendix B, lines 1-13), Petitioner's Habeas petition was exhausted at the time of filing.

Under "Vicarious Exhaustion of Remedies" (1987): "The rule that if one member of a class satisfies a requirement to exhaust administrative remedies, that is enough for all others similarly situated to be considered as having exhausted the remedies" (Black's Law Dictionary, 11TH Edition).

In the case of Scott A. Fischer, 2:20-cv-00051-TSZ, filed on January 13, 2020: "In the check-box form of habeas petition filed by Fischer, in response to the question of whether he sought 'further review by a higher state court,' i.e., the Washington Supreme Court, Fischer entered an 'X' in the 'No' box. See Pet. at 3 (docket no. 3). The R&R relies on this answer to conclude that Fischer failed to exhaust 'the remedies available in the courts of the State,' see 28 U.S.C. § 2254(b)(1)(A), and to recommend that the habeas petition be dismissed without prejudice. Fischer, however, was mistaken, and he did, in fact, unsuccessfully petition to the Washington Supreme Court for discretionary review. See State v. Fischer, 154 Wn. 2d 1006, 113 P.3d 482 (2005).

Moreover, Fischer presented two different personal restraint petitions to the Washington Court of Appeals, and certificates of finality issued on March 9, 2007, and April 21, 2017, respectively.

See State v. Fischer, Nos. 58499-5-I & 75249-9-I (docket available at <https://dc.courts.wa.gov>). Thus, the Court does not agree with the R&R that Fischer failed to exhaust his state court remedies" (Appendix B, lines 1-13).

Due to the Court's acceptance of Scott A. Fischer's meeting and fulfilling the exhaustion of state remedies requirement, the exhaustion of state remedies must also apply, vicariously, to Petitioner's Writ of Habeas Corpus; therefore, satisfying the exhaustion of state remedies in this petition.

Conclusion

The Court must grant Petitioner's Motion for Vicarious Exhaustion of State Remedies.

Respectfully and Peacefully,

Scott A. Fischer

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Petitioner, Pro Se

"APPENDIX A"

Accordingly, petitioner is not eligible for federal habeas review.^{4 5} Dkt. 7, at 1-12; *see Ha Van Nguyen v. Curry*, 736 F.3d 1287, 1296 (9th Cir. 2013) (citing *King v. Ryan*, 564 F.3d 1133, 1142 (9th Cir. 2009)) ("To be properly filed, a claim must have been exhausted *at the time of filing*." (emphasis added)).

B. "Motion to Compel Information"

In response to the Court's order to show cause petitioner filed a document entitled "Motion to Compel Information" which requests that the Court "order Respondent to present the Bill of Indictment of a Grand Jury causing the order of Petitioner's arrest and detainment, in accordance with the 5th Amendment of the United States Constitution" and to "proceed in a summary way" to decide the petition. Dkt. 9. Petitioner also argues that because a habeas petition is "an original action," and "not an appeal or a mechanism requesting the review of [his]

⁴ The Court notes that several similar petitions by different petitioners presenting the same grounds for relief and offering the same explanation for failure to exhaust state judicial remedies have been considered and dismissed by this court prior to service, pursuant to Rule 4, based on petitioner's failure to exhaust state judicial remedies. *See, e.g., Duchow v. State of Washington*, Case No. 19-cv-687-RSL-MAT (W.D. Wash., June 14, 2019) (dismissal without prejudice for failure to exhaust state court remedies); *Wamba v. State of Washington*, Case No. 19-cv-661-TSZ-MAT (W.D. Wash., June 13, 2019) (dismissal without prejudice for failure to exhaust state court remedies); *Domingo v. State of Washington*, Case No. 19-cv-659-MJP-BAT (W.D. Wash., June 18, 2019) (dismissal for failure to exhaust state court remedies and because grounds raised in petition are without merit); *Nguyen v. State of Washington*, Case No. 19-cv-5388-JCC-BAT (W.D. Wash., July 9, 2019) (dismissal for failure to exhaust state court remedies and because grounds raised in petition are without merit); *Urbina v. State of Washington*, Case No. 19-cv-648-BJR-BAT (W.D. Wash., May 21, 2019) (dismissal for failure to exhaust state court remedies and because grounds raised in petition are without merit).

⁵ The Court also notes that it appears that petitioner's substantive constitutional claims also lack merit as it has long been settled that there is no denial of Federal Constitutional rights involved in the substitution of the prosecuting attorney's criminal information for the grand jury's indictment. *Hurtado v. People of State of California*, 110 U.S. 516 (1884) (Rejecting claim that grand jury indictment is essential to due process and that it is a violation of the Fourteenth Amendment for a state to prosecute a defendant by criminal information). This rule has been specifically applied to Washington's state practice of prosecution by information. *Gaines v. Washington*, 277 U.S. 81, 48 S.Ct. 468, 72 L.Ed. 793 (1928); *Jeffries v. Blodgett*, 5 F.3d 1180, 1188 (9th Cir. 1993); and *see Domingo*, Case No. 19-cv-659-MJP-BAT (W.D. Wash., June 18, 2019) (dismissal for failure to exhaust state court remedies and because grounds raised in petition are without merit); *Nguyen*, Case No. 19-cv-5388-JCC-BAT (W.D. Wash., July 9, 2019) (dismissal for failure to exhaust state court remedies and because grounds raised in petition are without merit); *Urbina*, Case No. 19-cv-648-BJR-BAT (W.D. Wash., May 21, 2019) (dismissal for failure to exhaust state court remedies and because grounds raised in petition are without merit). However, the Court need not reach the merits of petitioner's claims as it is clear from the face of the petition that he has failed to exhaust his state court remedies.

"APPENDIX B"

1 affirmed Fischer's conviction and sentence. *Id.* In the check-box form of habeas petition
2 filed by Fischer, in response to the question of whether he sought "further review by a
3 higher state court," *i.e.*, the Washington Supreme Court, Fischer entered an "X" in the
4 "No" box. *See* Pet. at 3 (docket no. 3). The R&R relies on this answer to conclude that
5 Fischer failed to exhaust "the remedies available in the courts of the State," *see* 28 U.S.C.
6 § 2254(b)(1)(A), and to recommend that the habeas petition be dismissed without
7 prejudice. Fischer, however, was mistaken, and he did, in fact, unsuccessfully petition to
8 the Washington Supreme Court for discretionary review. *See State v. Fischer*, 154
9 Wn.2d 1006, 113 P.3d 482 (2005). Moreover, Fischer presented two different personal
10 restraint petitions to the Washington Court of Appeals, and certificates of finality issued
11 on March 9, 2007, and April 21, 2017, respectively. *See State v. Fischer*, Nos. 58499-5-I
12 & 75249-9-I (dockets available at <https://dw.courts.wa.gov>). Thus, the Court does not
13 agree with the R&R that Fischer failed to exhaust his state court remedies.

14 In a footnote, the R&R notes that Fischer's habeas petition is likely barred by the
15 one-year period of limitations set forth in 28 U.S.C. § 2244(d)(1). *See* R&R at 3 n.3
16 (docket no. 4). This footnote put Fischer on notice concerning the untimeliness of his
17 habeas petition, and Fischer has provided no argument in response. The Court concludes
18 that, prior to Fischer's filing of the habeas petition on January 13, 2020, more than one
19 year had elapsed since the date (April 21, 2017, at the latest) on which the judgment at
20 issue became final by conclusion of direct, and all post-conviction or collateral, review.
21 *See* 28 U.S.C. §§ 2244(d)(1)(A) & (2). Fischer has not described any "impediment" to
22 the filing of his habeas petition, any new United States Supreme Court precedent under
23

**Petition for Relief From a Conviction or Sentence
By a Person in State Custody**

(Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus)

Instructions

1. To use this form, you must be a person who is currently serving a sentence under a judgment against you in a state court. You are asking for relief from the conviction or the sentence. This form is your petition for relief.
2. You may also use this form to challenge a state judgment that imposed a sentence to be served in the future, but you must fill in the name of the state where the judgment was entered. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file a motion under 28 U.S.C. § 2255 in the federal court that entered the judgment.
3. Make sure the form is typed or neatly written.
4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
6. You must pay a fee of \$5. If the fee is paid, your petition will be filed. If you cannot pay the fee, you may ask to proceed in forma pauperis (as a poor person). To do that, you must fill out the last page of this form. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you. If your account exceeds \$ _____, you must pay the filing fee.
7. In this petition, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different court (either in the same state or in different states), you must file a separate petition.
8. When you have completed the form, send the original and _____ copies to the Clerk of the United States District Court at this address:

Clerk, United States District Court for
Address
City, State Zip Code

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you. **NOTE:** If you are housed at a Department of Corrections facility subject to the Prisoner Electronic Filing Initiative pursuant to General Orders 02-15 and 06-16, you may fulfill this mailing requirement by submitting your documents to the appropriate person at your facility who will transmit your documents electronically to the US District court. Your facility will receive documents filed in your case electronically on your behalf.

9. **CAUTION:** You must include in this petition all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.
10. **CAPITAL CASES:** If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.